

ESTTA Tracking number: **ESTTA935329**

Filing date: **11/15/2018**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following parties oppose registration of the indicated application.

Opposers Information

Name	Philadelphia Eagles LLC		
Entity	Limited Liability Company	Citizenship	Pennsylvania
Address	NovaCare Complex, One NovaCare Way Philadelphia, PA 19145 UNITED STATES		

Name	NFL Properties LLC		
Entity	Limited Liability Company	Citizenship	Delaware
Address	345 Park Avenue New York, NY 10154 UNITED STATES		

Attorney information	Kristin H. Altoff Morgan, Lewis & Bockius LLP 1111 Pennsylvania Ave. NW; Attn: TMSU Washington, DC 20004 UNITED STATES trademarks@morganlewis.com, kristin.altoff@morganlewis.com, seth.rappaport@morganlewis.com, michelle.raynes@morganlewis.com 2027395093		
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Applicant Information

Application No	87918076	Publication date	10/16/2018
Opposition Filing Date	11/15/2018	Opposition Period Ends	11/15/2018
Applicant	Boisineau International Company LLC 120 W. 6th Avenue Windermere, FL 34786 UNITED STATES		

Goods/Services Affected by Opposition

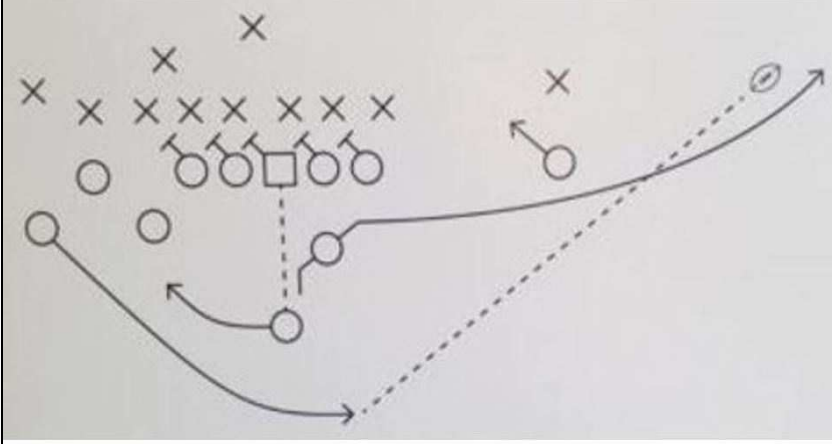
Class 033. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Spirits, liquors, wine, wine coolers, wine drinks

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	PHILLY SPECIAL		
Goods/Services	Promoting a football franchise; merchandise products including clothing, hats, wine and beer		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Design Mark			
Goods/Services	Promoting a football franchise; merchandise products including clothing, hats, wine and beer		

Attachments	Philly Special Design 13.JPG PHILLY SPECIAL and Design Notice of Opposition.pdf(337154 bytes)
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Signature	/Kristin H. Altoff/
Name	Kristin H. Altoff
Date	11/15/2018

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

PHILADELPHIA EAGLES LLC and NFL
PROPERTIES LLC,

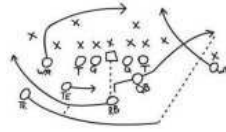
Opposers,

v.

BOISINEAU INTERNATIONAL COMPANY
LLC,

Applicant.

In re Application Serial No. 87/918,076
Mark: PHILLY SPECIAL and Design



PHILLY SPECIAL

Published: October 16, 2018

Opposition No. _____

NOTICE OF OPPOSITION

Opposers Philadelphia Eagles LLC and NFL Properties LLC (“Opposers”) believe they will be damaged by registration of the designation PHILLY SPECIAL and Design shown in Application Serial No. 87/918,076 (“Applicant’s PHILLY SPECIAL Designation”), filed by Boisineau International Company LLC (“Applicant”) for use in connection with “Spirits, liquors, wine, wine coolers, wine drinks” in Class 33. Opposers hereby oppose registration of Applicant’s PHILLY SPECIAL Designation under the provisions of Sections 2(d) and 13 of the Trademark Act of July 5, 1946 (the “Lanham Act”), 15 U.S.C. §§ 1052(d) and 1063.

As grounds for opposition, Opposers allege that:

1. Opposer Philadelphia Eagles LLC (the “Eagles” or “Eagles Club”) is a Pennsylvania limited liability company, with a principal place of business at NovaCare Complex, One NovaCare Way, Philadelphia, Pennsylvania, 19145. The Eagles Club owns and operates a professional football team and provides entertainment services to the public in the form of competitive professional football games. The Eagles Club is one of the thirty-two member clubs (the “Member Clubs”) of the National Football League (“NFL”).

2. Opposer NFL Properties LLC (“NFLP”) is a limited liability company organized and existing under the laws of Delaware with its principal place of business at 345 Park Avenue, New York, New York, 10154. NFLP represents the NFL and its thirty-two Member Clubs for the licensing and protection of their names, logos, symbols, and other identifying marks and is charged with protecting these marks and the rights of the NFL and the Member Clubs with respect thereto.

3. Since at least as early as February 9, 2018 and before the May 11, 2018 filing date of Applicant’s intent-to-use application, Opposers have used the mark PHILLY SPECIAL and variations thereof (“Opposers’ PHILLY SPECIAL Mark”) in connection with their business of organizing, conducting, and promoting the Eagles football franchise, including offering promotional goods featuring the mark.

4. Since at least as early as February 9, 2018 and long before the May 11, 2018 filing date of Applicant’s intent-to-use application, Opposers and their authorized business partners, sponsors, and/or licensees have used Opposers’ PHILLY SPECIAL Mark on or in connection with the business of organizing, conducting, and promoting the Eagles football franchise, including offering promotional goods featuring the mark.

5. During the widespread and continuous use of Opposers’ PHILLY SPECIAL Mark, Opposers and their authorized business partners, sponsors, and licensees have expended considerable time, effort, and money in advertising and publicizing the sale of goods and services under Opposers’ PHILLY SPECIAL Mark.

6. Opposers and their licensees and sponsors have sold and offered for sale goods and services bearing Opposers’ PHILLY SPECIAL Mark in a trading area of broad geographical scope encompassing the United States, including its territories.

7. Opposers and their licensees and sponsors have sold and offered for sale goods and services bearing Opposers' PHILLY SPECIAL Mark in numerous channels of trade.


8. Opposers' PHILLY SPECIAL Mark is symbolic of the extensive goodwill and consumer recognition that Opposers have established through substantial expenditures of time, effort and other resources in the advertising and promotion of the goods and services Opposers sell and offer for sale under Opposers' PHILLY SPECIAL Mark.

9. Opposers' PHILLY SPECIAL Mark has been used on goods provided by Opposers since February 9, 2018 and well before the May 11, 2018 filing date of Applicant's intent-to-use application, including in a manner that is nearly identical to Applicant's PHILLY SPECIAL Designation. An example of such use is shown below.



Women's Philadelphia Eagles NFL Pro Line by Fanatics Branded Black Super Bowl LII Champions Philly Special 2.0 V-Neck T-Shirt
In Stock - This item will ship within 3 Business Days.


Your Price: \$27.99

 Ships Free with code: ENDZONE

Size: SIZE CHART

Quantity



 SHOPRUNNER free 2-day shipping & free returns (\$25 minimum)
[learn more](#) | [sign in](#)

Shipping

- This item will ship within 3 Business Days.

10. Opposers' PHILLY SPECIAL Mark has also been used in connection with beer and wines, which are within Opposers' natural zone of expansion of use of Opposers' PHILLY

SPECIAL Mark. These goods are provided through Opposers' authorized licensees and business partners. Examples of such uses of Opposers' PHILLY SPECIAL Mark by Opposers' authorized licensees and business partners in connection with beer and wine are shown below.



11. On May 11, 2018 Applicant filed an intent-to-use application for federal registration of Applicant's PHILLY SPECIAL Designation shown in Application Serial No. 87/918,076.

12. Applicant's PHILLY SPECIAL Designation application covers the following goods in Class 33: "Spirits, liquors, wine, wine coolers, wine drinks."

13. Applicant's PHILLY SPECIAL Designation, Application Serial No. 87/918,076, was published for opposition in the *Official Gazette* on October 16, 2018.

14. Opposers' rights in and to Opposers' PHILLY SPECIAL Mark are superior to those of Applicant.

15. Applicant's application for and any use of Applicant's PHILLY SPECIAL Designation are without the consent, authorization, or license of Opposers.

16. Opposers believe they will be damaged by registration of Applicant's PHILLY SPECIAL Designation under Section 13 of the Lanham Act, 15 U.S.C. § 1063, on the ground that the subject designation so resembles Opposers' PHILLY SPECIAL Mark used by Opposers in the United States as to be likely, when used on or in connection with the goods identified in the application for Applicant's PHILLY SPECIAL Designation, to cause confusion, mistake or to deceive consumers, with consequent injury to Opposers and to the public, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

WHEREFORE, Opposers believe they will be damaged by registration of Applicant's PHILLY SPECIAL Designation shown in Application Serial No. 87/918,076 and respectfully request that the registration sought by Applicant be refused.

Dated: November 15, 2018

Respectfully submitted,

By: /s/ Kristin H. Altoff

Kristin H. Altoff

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